Panama Amendment Proposed:

Measure on Covert Operations Stumbles During Senate Debate

Senate efforts to pass a covert operations bill (S 1721) March 4 were stalled when conservative Republicans held up the measure by proposing amendments relating to Panama and the number of Soviet SS-20 missiles aimed at Europe.

"This amendment has no business being on this bill," said William S. Cohen, R-Maine, referring to a proposal by Steve Symms, R-Idaho, that would have delayed ratification of the treaty eliminating intermediate-range nuclear-force (INF) missiles until the president certified the number of Soviet SS-20 missiles. *(INF treaty, p. 591)*

Symms eventually withdrew his amendment, but another by Jesse Helms, R-N.C., was pending. Debate was scheduled to resume March 15.

Helms' measure called on President Reagan to notify Panama that he is considering abrogating the Panama Canal treaties unless Panama moves toward democratization. He backed away from earlier plans urging extradition of military strongman Gen. Antonio Manuel Noriega to the United States to face charges of drug trafficking. *(Panama, p. 559)*

David L. Boren, D-Okla., manager of the bill and chairman of the Intelligence Committee, met with Helms during the afternoon of March 4 in an effort to avoid delaying the bill's passage. But they were unable to reach an agreement.

Majority Leader Robert C. Byrd, D-W.Va., also filed a cloture petition March 4 to end debate on the bill.

The covert operations measure is the first Senate attempt to address directly the problems that led to the Iran-contra scandal. The bill would require President Reagan and future presidents to keep Congress "fully and currently informed" about all intelligence activities, ranging from routine information gathering to covert operations.

Veto Possible

The bill faces a probable veto by Reagan, who claims it violates his con-stitutional right to carry out foreign policy as he sees fit.

Critics oppose a provision requiring the president to notify Congress of all covert operations, but in no event later than 48 hours after the operation. There are also fears that congressional leaks about some operations might endanger the lives of intelligence agents.

The underlying concern of the bill's foes, however, is that it would extend Congress' power to help formulate foreign policy too far and thus limit the president's power to execute it.

"S 1721 attempts to legislate good judgment," Chic Hecht, R-Nev., said on the floor. "Congress should not be in the business of micro-managing our foreign policy."

Congress learned after the fact last summer of efforts by administration officials to sell arms to Iran and to use the proceeds to fund rebels fighting the Nicaraguan government. Much of the operation was engineered by then-Director of Central Intelligence (DCI) William J. Casey. Administration witnesses have testified that Reagan gave only oral approval to the Iranian arms sales, while no members of Congress were informed.

The legislation was a direct offshoot of congressional hearings into that affair.

A House Intelligence subcommittee will hold hearings on a similar bill (HR 3822) March 10.

Presidential Responsibility

The Senate bill started as a sweeping attempt to curb presidential powers over covert operations, but concessions were made in order to ensure broad-based support. The bill, sponsored by Cohen, was approved by the Senate Intelligence Committee Jan. 27 with a 13-2 vote. *(Weekly Report p. 202)*

Most of the bill's provisions draw from existing executive practice or statute, including the 1974 Hughes-Ryan amendment (PL 93-559) requiring congressional notice of covert operations and a 1980 rewrite (PL 96-450) requiring disclosure in "a timely fashion."

The bill would give the president sole responsibility for notifying Congress about covert operations. Current law and regulations give this responsibility to the DCI.

The measure also marks the first time Congress has defined covert operations. Using wording from a 1981 Reagan executive order, the bill defines such "special activity" as any operation conducted "in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States government is not apparent or acknowledged publicly." The definition excludes diplomatic activities and "related support activities," meaning routine intelligence gathering.

The bill's notification procedures vary depending on the covert activity. Under "ordinary circumstances," the bill requires the president to notify the two Intelligence committees about covert operations before they are undertaken. But under "rare occasions when time is of the essence," the president may wait up to 48 hours after a covert activity is initiated before notifying Congress.

The Senate voted down, 65-23, an amendment by James A. McClure, R-Idaho, that would have in effect done away with the 48-hour provision. It would have allowed the president to withhold notification of Congress about a covert operation if disclosure posed an imminent risk to human lives or to the cooperation of third countries.

Gang of Four, or Eight

Under the bill, the president has the option in certain cases of notifying the House and Senate majority and minority leaders, or that group and the chairmen and ranking members of the two Intelligence committees, depending on the degree of an operation's sensitivity.

To exercise either option, the president must conclude that avoiding the full committees "is essential to meet extraordinary circumstances affecting vital interests of the United States."

Boren added the four-member provision in committee as a compromise to senators worried about congressional leaks.

On the floor, John H. Chafee, R-R.I., successfully attached an amendment, with the support of Boren, to prohibit senators apprised of a covert operation from sharing the information with staffers or other members. ∎

—By Mike Mills